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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/077,741	02/14/2002	Peter Ebert		3483

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EXAMINER

BEAULIEU, YONEL

ART UNIT PAPER NUMBER

3661

DATE MAILED: 07/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/077,741

Applicant(s)

EBERT, PETER

Examiner

Yonel Beaulieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 February 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.                      6) ☐ Other: \_\_\_\_\_

***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Therefore, "The present invention ..." (line 2) is redundant and should be avoided.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 – 10, 12, 14, and 16 – 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Lemelson et al. (US 6,317,058 B1).

Regarding claims 1, 19, and 20, Lemelson et al. teaches an apparatus for adding commercial value to a traffic control system, comprising a central processing unit (81); communication means (75) operably connected (via item 79) to the unit permitting communication with a computer network (fig. 7); communication means (96) operably connected to the unit (via item 95) permitting communication with at least one sensor (2) and electronic connection means (col. 11: 56 – 63) for connecting the apparatus to the traffic control system (col. 8: 57-58; col. 11: 22 – col. 12: 3).

Regarding claims 2 and 6, Lemelson teaches the apparatus is at least partly remote-controlled (col. 10: 59 - 62 at least).

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Regarding claims 3 - 5, the apparatus provides for access of the sensors (2) to the computer network (col. 9: 31 – 38 at least).

Regarding claim 7, one of Lemelson's devices being an electronic display (note item 20 in fig. 3; see also fig. 4).

Regarding claims 8, 9, and 17 one of Lemelson's devices is at least a component of a data service system (note items 10 in fig. 2 at least).

Regarding claim 10, one of Lemelson's devices being a digital camera (7; see figs. 1-2 at least; col. 9: 23 – 27 at least).

Regarding claim 12, one of the devices being at least a component of a system for identifying specific vehicles (4; col. 9: 13 – 19 at least).

Regarding claim 14, the apparatus being connected to an emergency telephone system (col. 11: 9 – 18 at least).

Regarding claim 15, one of Lemelson's devices providing traffic telemetry data (note items 2 and 5 – 7 in fig. 1 at least).

Regarding claim 16, Lemelson uses at least part of the electrical power infrastructure of the system (note figs. 5-6; col. 10: 34 and 55 – 58 at least).

Regarding claim 18, Lemelson's apparatus is able to run a digital image recognition software application (col. 4: 36 – 45 at least).

Regarding claims 21 - 29, as discussed above, Lemelson teaches a method of presenting a commercial to motorists comprising a central processing unit (81); communication means (75) operably connected (via item 79) to the unit permitting communication with a computer network (fig. 7); communication means (96) operably connected to the unit (via item 95) permitting communication with at least one sensor (2) and electronic connection means (col. 11: 56 – 63) for connecting the apparatus to the traffic control system (col. 8: 57-58; col. 11: 22 – col. 12: 3); connecting the apparatus to a computer network (col. 9: 31 – 38 at least); providing a plurality of electronic displays (note item 20 in fig. 3; see also fig. 4); deploying the display so that motorists traveling along a route can see the display data concerning traffic status (see figs. 3-4); and a digital camera (7).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior

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art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemelson, as applied to claim 1 above and further in view of Mizunuma et al. (US 6,411,889 B1).

As discussed above, Lemelson teaches all of the limitations of claims 11 and 13 except for the explicit recitation of a component of the apparatus being at least an electronic toll collection system (cl. 11) and at least of the devices being connected to a short-range data transmitter or receiver (cl. 13).

However, Mizunuma teaches, in the same field of endeavor of traffic control apparatus, a component of the apparatus being at least an electronic toll collection system (col. 3: 10 – 30) and at least of the devices being connected to a short-range data transmitter or receiver (col. 10: 56 – col. 11: 13).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Lemelson's apparatus by including a toll collection system and short-range transmission as evidenced by Muzunnuma in order to enhance congestion reduction.

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Claims 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemelson as applied to claim 24 above.

As discussed above, Lemelson teaches all of the limitations except for the motorists seeing at least part of the editions of the commercial and how often a specific commercial has been displayed within a specific time range.

However, seeing at least part of the commercial within a specific time range would be obvious to one of ordinary skill in the art at the time of the invention in the case where the motorist is traveling at a speed higher than the time window permitted to view the displayed commercial; overall, it appears Lemelson apparatus performs equally well.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yonel Beaulieu whose telephone number is (703) 305-4072. The examiner can normally be reached on M-R, from 0900-1600.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William A. CUCHLINSKI can be reached on (703) 308-3873. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and same for After Final communications.



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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Y. BEAULIEU

June 25, 2003

  
YONEL BEAULIEU  
PRIMARY EXAMINER